



H.R. 4081 – TO PREVENT TOBACCO SMUGGLING, TO ENSURE THE COLLECTION OF ALL TOBACCO TAXES, AND FOR OTHER PURPOSES

FLOOR SITUATION

H.R. 4081 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Anthony Wiener (D-NY) on November 5, 2007. The bill was referred to the House Committee on the Judiciary and was reported, as amended, by voice vote on July 16, 2008.

H.R. 4081 is expected to be considered on the floor of the House on September 8, 2008.

SUMMARY

H.R. 4081 places new requirements on companies that sell and ship tobacco products (specifically, cigarettes and smokeless tobacco) through the mail to consumers.

Shipping and Labeling

Under the bill, companies that ship tobacco products must not sell or ship for single delivery any tobacco product weighing more than ten pounds. Also, every package containing tobacco products must be clearly labeled with the statement: "CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS." Tobacco products that do not have this labeling are non-deliverable.

H.R. 4081 prohibits the United States Postal Service (USPS) from shipping cigarettes or smokeless tobacco (but not cigars), except for shipments within or into any State (including the District of Columbia) that is not contiguous to at least one other State. However, H.R. 4081 does allow cigarettes to be mailed by manufacturers for valid business purposes and for customers to return damaged packs of cigarettes to manufacturers.

Age Verification and Records of Sale

Additionally, the bill requires that all companies who mail tobacco products obtain the name, birthday, and address of anyone placing a mail order for tobacco. This information is to be kept in a database by the seller for four years and is to be available to all Federal, State, and Tribal authorities for compliance verification.

The bill also requires these companies to use delivery methods that verify all persons accepting the delivery of tobacco products are of the minimum age required for the legal purchase of tobacco by providing government identification and signature.

List of Unregistered or Non-compliant Delivery Tobacco Sellers

H.R. 4081 requires all tobacco delivery companies to register with the U.S. Attorney General within ninety days of this bill's enactment, and requires the Attorney General to compile a list of those companies that have not registered or are not in compliance with the provisions of this bill. These companies are to be notified of their inclusion on the non-compliance list.

Taxes

H.R. 4081 requires tobacco delivery companies to charge applicable Federal, State, or local taxes on tobacco products (except cigars) prior to shipping.



LEGISLATIVE DIGEST

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Penalties

Tobacco delivery companies found to be in violation of any of the provision of H.R. 4081 will not be subject to civil penalties. Penalties are to be the greater of: 1) two percent of the gross cigarette or smokeless tobacco receipts for the year prior to the date of violation; or 2) \$5,000 for a first violation or \$10,000 for any other. Common carriers or independent delivery services that are found to enforce effective policies in compliance with this bill will be subject to penalties.

BACKGROUND

According to the U.S. Department of the Treasury, the Jenkins Act of 1946 (P.L. 81-363) regulates the shipment of tobacco products to consumers through mail carriers such as the United States Postal Service and private carriers. The Jenkins Act requires that tobacco delivery companies file monthly reports on all taxes collected with the tax collection agencies in each state that it delivers tobacco products.

Consumers who order tobacco products on the internet from outside the United States are not exempt from paying Federal excise taxes or customs duties. Also, consumers who purchase tobacco products over the internet from another State may have to pay their State's tobacco sales and excise taxes. All tobacco products made in the U.S. and shipped outside the U.S. can not be brought back in to the U.S. through purchase by an individual consumer over the internet.

Several major private shipping companies, such as UPS, DSL, and FedEx, do not ship tobacco products. Currently, most orders for tobacco made over the internet in the U.S. are shipped using the USPS.

According to the Republican Staff of the House Committee on Homeland Security, illegal tobacco trade is one of the most lucrative smuggling operations in the world. Estimates show that five percent of the cigarette market in North America, or 414 billion cigarettes, are illicit. The report indicates that money made through this type of trafficking is linked to funding terrorist organizations such as Hezbollah, Hamas, and al Qaeda.

[Link to report on cigarette and smokeless tobacco smuggling prepared by the Republican Staff of the U.S. House Committee on Homeland Security](#)

[U.S. Alcohol and Tobacco Tax and Trade Bureau](#)

COST

According to the Congressional Budget Office, implementing H.R. 4081 would cost about \$120 million over the 2009-2013 period.

[Link to CBO cost estimate for H.R. 4081](#)

STAFF CONTACT

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